

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE:
VITAMINS ANTITRUST LITIGATION

)
)
)
) Misc. No. 99-197 (TFH)
) MDL No. 1285

THIS DOCUMENT RELATES TO:

Kellogg Company v. BASF AG et al.
&
Livengood Feeds Inc. et al. v.
Merck KgaA et al.

FILED

MAR 21 2003

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

MEMORIALIZING ORDER

In accordance with the rulings made in Court on March 21, 2003, it is hereby

ORDERED that:

- (1) Niacin Defendants' Motion to Preclude the Expert Testimony of Dr. Bernheim and Dr. Perloff as Related to Niacin is **DENIED**;
- (2) Defendants' Motion *In Limine* to Exclude the Expert Reports and Testimony of Dr. Perloff is **DENIED**;
- (3) Kellogg Company's Objection to the Niacin Defendants' Untimely Designation of Expert Testimony and request to exclude expert testimony is **GRANTED IN PART** and **DENIED IN PART**. Specifically, the motion is granted with respect to Defendant Lonza's designation of experts Dr. Christopher Velturo and Mr. David Kaplan,¹ and is denied with respect to the designation of Dr. Robert Pindyck. In addition, the Court grants Kellogg leave to depose Dr. Pindyck, if necessary, within the next week;
- (4) Lonza's Motion to Bifurcate Damages and Liability and to Stay Kellogg's Foreign Purchase Claims is **DENIED**;

¹ The Court also notes that Lonza agreed in open court not to offer these experts in light of the concerns of the Court.

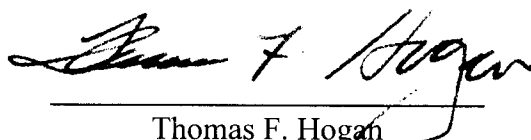
(2)

44307

(5) The Trial in Kellogg Company v. BASF AG et al. is continued until **Wednesday, April 16, 2003 at 10:00 a.m.**

SO ORDERED.

March 21, 2003



Thomas F. Hogan
Chief Judge